

FREEDOM COURT REPORTING

1 IN THE UNITED STATES DISTRICT COURT 1
2 FOR THE MIDDLE DISTRICT OF ALABAMA
3 EASTERN DIVISION

4 CIVIL ACTION NUMBER: 3:05-cv-0741-WKW

5 BARRY BUCKHANON and RODNEY FRALEY,

6 Plaintiffs,

7 vs.

8 HUFF & ASSOCIATES CONSTRUCTION

9 COMPANY, INC.,

10 Defendant.

11
12 DEPOSITION OF ROBERT LEE MYERS, JR.

13 In accordance with Rule 5(d) of
14 The Alabama Rules of Civil Procedure as
15 Amended, effective May 15, 1988, I,
16 VIRGINIA DENESE BARRETT, am hereby
17 delivering to Mr. James R. Bowles, the
18 original transcript of the oral testimony
19 taken on the 26th day of April, 2006,
20 along with exhibits.

21 Please be advised that this is
22 the same and not retained by the Court
23 Reporter, nor filed with the Court.

COPY

FREEDOM COURT REPORTING

1 under your supervision at the KA House, 31
2 did you ever use the word nigger in their
3 presence?

4 A. Not that I can remember.

5 Q. Okay. If Barry Buckhanon and
6 Rodney Fraley said they overheard you say
7 I ain't going to put up with a bunch of
8 ignorant niggers on my job, would they be
9 lying?

10 A. No, sir. I did not say that.

11 Q. Okay. So --

12 MR. WILSON: Listen to his
13 question. Go ahead.

14 Q. If Barry Buckhanon and Rodney
15 Fraley said that you said that, would they
16 be lying?

17 A. Yes.

18 Q. Okay. So you deny making a
19 statement like that; is that correct?

20 A. That's right.

21 Q. In speaking directly to Barry
22 Buckhanon and Rodney Fraley, have you ever
23 said, Your kind don't know anything?

FREEDOM COURT REPORTING

32

1 A. That's quite not the way I
2 put it.

3 Q. How did you put it?

4 A. We were trying to get some
5 work done. I told them -- three times I
6 told them this. You don't know nothing
7 about what we're doing. And they didn't.

8 Q. Okay. You never said these
9 words, quote, Your kind don't know
10 anything, when you were addressing
11 Buckhanon and Fraley?

12 A. No, sir. No, sir. I told
13 them about what we were doing.

14 Q. Okay. In referring to
15 another black employee on the job site,
16 have you ever said in the presence of
17 Barry Buckhanon and Rodney Fraley these
18 words, Niggers like him don't know
19 anything?

20 A. No, sir.

21 Q. Do you deny making that
22 statement?

23 A. Yes, sir. I deny that.

FREEDOM COURT REPORTING

40

1 Q. When was the last time you
2 used the word nigger referring to a black
3 person?

4 A. I don't use the word nigger.

5 Q. Okay. You've never used it?

6 A. No. That's something I try
7 not to use.

8 Q. Okay. Let me show you a
9 couple of documents here, Mr. Myers. The
10 first one is what I've marked as
11 Plaintiffs' Exhibit Number 1 and I'd ask
12 you if you've ever seen that document
13 before?

14 A. That was --

15 MR. WILSON: Listen to him. He
16 wants to know if you've
17 seen it.

18 A. Yes. I've seen it.

19 Q. Okay. What is that?

20 A. That's a separation from the
21 job.

22 Q. Okay. For who?

23 A. For Barry Buckhanon.

FREEDOM COURT REPORTING

41

1 Q. And did you sign that
2 document?

3 A. Right there.

4 Q. Okay. And what were the
5 circumstances under which Mr. Buckhanon
6 left that job?

7 A. Well, he said he could do it.
8 I let him go once before because of the
9 same thing. But he got to staggering
10 around. He can't hardly walk. Somebody
11 like that don't need to be on the job.

12 Q. What do you mean? Was he
13 intoxicated?

14 A. No. His legs wouldn't --
15 wouldn't carry him. I sent him up the
16 stairs to get something another, and it
17 looked like he was going to fall before he
18 got back down. I can't take that chance.

19 Q. Okay. I believe you said he
20 went to work there in early June of 2004?

21 A. Right.

22 Q. Did you terminate him at some
23 point after that the first time?

FREEDOM COURT REPORTING

42

1 A. I terminated him right here.

2 Q. Okay. You said you had let
3 him go once before?

4 A. I let him go home. And he
5 come back up there and spent a whole day
6 trying to get back on before I sent this
7 sheet in to the office.

8 Q. Okay. So you only fired him
9 one time, right?

10 A. Right.

11 Q. Okay. But you had sent him
12 home once before?

13 A. Right.

14 Q. And what did you send him
15 home for?

16 A. Same thing. He had a hard
17 time walking.

18 Q. Okay. Did he have some sort
19 of disability?

20 A. His legs. There was
21 something another wrong with his legs.

22 Q. Okay. And what happened the
23 second time when you actually fired him?

FREEDOM COURT REPORTING

43

1 A. When he went up the stairs,
2 he come back down them stairs and he was
3 staggering from one side to the other and
4 his leg was giving him trouble. I
5 realized he couldn't do it. If I would
6 have kept him, sooner or later we would
7 have wound up in a lawsuit with that.

8 Q. Did you tell him at that time
9 that you were firing him?

10 A. I told him to go home. I
11 didn't need him no more.

12 Q. Now, Barry Buckhanon says you
13 told him to take tomorrow off?

14 A. I told him I didn't need him
15 no more. That's the first time. I did
16 tell him that. But he come right on back
17 anyway and kept on begging to get back on.
18 Make sure he got his job back.

19 Q. Okay. Well, the second time,
20 did you actually tell him straight out,
21 I'm firing you or I'm terminating you?

22 A. No. I told him I won't need
23 you no more. That's exactly the words I